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City Council Regular Meeting Minutes

**Monday, August 12, 2019
7:00 p.m., Community Auditorium**

***Minutes are unofficial until approved by Council.
Council approved minutes as presented September 9, 2019.***

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the regular City Council meeting to order at 7:03 p.m. and led the Pledge of Allegiance.

ROLL CALL: COUNCIL PRESENT: Timothy Rippe; Ronald Thompson; Elena Uhing; Adolph “Val” Valfre; Malynda Wenzl; and Mayor Peter Truax. **COUNCIL ABSENT:** Thomas Johnston, Council President, excused.

STAFF PRESENT: Jesse VanderZanden, City Manager; Spencer Parsons, City Attorney; Paul Downey, Administrative Services Director; Keith Hormann, Light and Power Director; Michael Kinkade, Fire Chief; Bryan Pohl, Community Development Director; James Reitz, Senior Planner; and Anna Ruggles, City Recorder.

1. A. PROCLAMATION:

Fill-The-Boot for Muscular Dystrophy Association (MDA)

Mayor Truax publicly read the Proclamation declaring August 21, 2019, as “*Fill-The-Boot*” for MDA, in Forest Grove.

2. CITIZEN COMMUNICATIONS:

Victoria Lowe, Forest Grove, addressed Council regarding the need to protect federal regulations, such as the Clean Air Act and Clean Water Act, and objected to the lack of food.

3. CONSENT AGENDA:

Items under the Consent Agenda are considered routine and are adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the remaining Consent Agenda item(s).

- A. Approve City Council Work Session (Town Center Parking Study) Meeting Minutes of June 10, 2019.
- B. Approve City Council Work Session (Federal Grant Feasibility Analysis)

- Meeting Minutes of June 10, 2019.
- C. Approve City Council Work Session (Economic Development Strategic Plan) Meeting Minutes of June 24, 2019.
 - D. Approve City Council Regular Meeting Minutes of June 24, 2019.
 - E. Approve City Council Work Session (Proposed Police Station Concept Design Review) Meeting Minutes of July 8, 2019.
 - F. Approve City Council Regular Meeting Minutes of July 8, 2019.
 - G. Approve City Council Executive Session (City Manager Performance Evaluation) Meeting Minutes of July 8, 2019.
 - H. Accept Historic Landmarks Board Meeting Minutes of June 11, 2019.
 - I. Accept Library Commission Meeting Minutes of June 11, 2019.
 - J. Accept Parks and Recreation Commission Meeting Minutes of June 19, 2019.
 - K. Accept Planning Commission Meeting Minutes of June 17, 2019.
 - L. Accept Public Arts Commission Meeting Minutes of June 13, 2019.
 - M. Community Development Department Monthly Building Activity Informational Report for July 2019.

MOTION: Councilor Wenzl moved, seconded by Councilor Rippe, to approve the Consent Agenda as presented. ABSENT: Council President Johnston. MOTION CARRIED 6-0 by voice vote.

4. ADDITIONS/DELETIONS:

VanderZanden rescheduled Agenda Items No. 8 and No. 9 to the next meeting of September 9, 2019, to which Council collectively concurred. In addition, VanderZanden advised Council may consider rescheduling Agenda Items No. 17-19 at its discretion depending upon agenda time constraints.

5. PRESENTATIONS: None.

6. PUBLIC HEARING OF AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF SITE PLAN AND DESIGN REVIEW FOR DOLLAR GENERAL, 1121 GALES CREEK ROAD (WASHINGTON COUNTY TAX LOT 1N436B003100); FILE NO. 311-19-000006-PLNG

Declaration of Ex-parte Contacts, Conflicts of Interest, or Abstentions:

Rippe declared no influence on his decision, noting he resides in the west end of town and he has walked the proposed area. Rippe disclosed having a conversation with the Forest Grove/Cornelius Chamber of Commerce Executive Director regarding sending correspondence to the applicant. Rippe also reported initiating concerns to the City Manager regarding traffic/pedestrian/bicycle safety.

Thompson declared no influence on his decision, noting he resides within four miles from the proposed site. Thompson recalled being appointed to the Planning Commission when the decision regarding the proposed site was made.

Uhing declared no influence on her decision, noting she received e-mail and in person contacts, which she declined and instead she invited them to attend this evening's hearing.

Valfre declared no concern or bias on his decision, noting he resides near the proposed area. Valfre disclosed he has been asked his opinion and he is aware of the traffic issues.

Wenzl declared no influence on her decision, noting she resides within one mile from the proposed site. Wenzl disclosed receiving e-mail from three individuals, which she declined to engage.

Mayor Truax declared no bias on his decision, noting he resides near the proposed area. Mayor Truax disclosed receiving e-mail, which he forwarded to the City Recorder.

Challenges from Parties:

None declared.

Staff Report:

Reitz and Pohl presented the staff report, noting the appellant has filed an appeal of the Planning Commission's Approval of the Site Plan and Design Review for a new Dollar General, located at 1121 Gales Creek Road (Washington County Tax Lot 1N436B003100); File No. 311-19-000006-PLNG. Reitz referenced an aerial photo of the subject site and zoning map showing the area zoned as Neighborhood Mixed Use (NMU), noting this is the first application submitted for the "Gales Creek" NMU zoned area (approximately 6.68 acres). The application currently is a stand-alone, noting no other applications have been submitted within this NMU zone. All the other parcels within this NMU zone are individually owned (9 property owners). Reitz referenced the architectural plan of the building, sidewalk/parking lot/landscape plans and intersection improvement plan, and referenced Attachment 1, Appellant's Materials; Attachment 2, Correspondence received; Attachment 3, Planning Commission Decision Number 2019-08 and Attachment 4-5, Planning Commission staff report and minutes. In addition, Reitz presented a PowerPoint presentation overview addressing the appeal, noting the appellant must "identify the specific issues being appealed" and "on the record" means "issues in the record, whether raised in writing or orally".

Basis of Appeal

1. The use would not be located in a Village Center pursuant to Development Code §17.3.320; and
2. The use would not comply with the purpose of the NMU zone, pursuant to Development Code §17.3.310.

Questions Raised by the Appeal

1. Is the Mixed Use Planned Development (MUPD) preliminary plan approval process the exclusive process available for designating a “Village Center”? Or does the City have the authority and flexibility under the Development Code to designate a “Village Center” outside of the MUPD process?
2. Is the purpose statement of the NMU zoning district a criterion that must be satisfied in order to approve a project?

In addition, Reitz and Pohl addressed the Traffic Impact Analysis, noting Washington County Transportation engineering staff reviewed the application for traffic impacts and concluded that “the trips are low” (emphasis added) and thus a traffic impact analysis was not warranted. As noted in the staff report, the Transportation System Plan has information on Crash History at the Gales Creek / Thatcher Road intersection. Because of the small increase in traffic and the low documented collision rate, no further safety investigation was warranted. Pedestrian access and safety were discussed by the Planning Commission (PC). During the PC hearing, it was noted that sidewalks are installed concurrent with development. An applicant can be required to extend sidewalks off-site, but only if there is a clear nexus that the use would generate significant pedestrian traffic and that the condition to require off-site sidewalks was proportional to the increase in pedestrian traffic. Based on the small scale of this project, that nexus does not exist. All three legs of the Gales Creek Road / Thatcher Road “Y” intersection are owned by Washington County. A Concept Design has been prepared to improve pedestrian safety at this intersection (Slide 16). In conclusion of the above-noted staff report, Reitz and Pohl advised:

- If the Council determines that the MUPD preliminary plan approval process is the only means by which a “Village Center” may be established in the NMU zoning district, then the Council would be obligated to uphold the appeal.
- If the Council determines that the MUPD preliminary plan approval process is not the only means by which the Council can designate a “Village Center” then it would need to designate the subject property as a “Village Center” as part of this process in order to approve the application.

The Council has the following three options for consideration:

1. Deny the appeal and approve the application with the conditions imposed by the Planning Commission; OR
2. Deny the appeal and approve the application with modifications to the conditions imposed by the Planning Commission; OR
3. Sustain the appeal and deny the application.

Public Hearing Opened:

Mayor Truax opened the Public Hearing and explained the hearing procedures.

Mayor Truax asked Council whether to limit discussion to the appeal issues only, or discuss any other “on the record” issues, to which the following motion was made.

MOTION REGARDING SCOPE: Councilor Rippe moved, seconded by Councilor Thompson, to hear the appeal issues and include only “on the record” traffic and pedestrian issues.

Council Discussion on the Motion Regarding Scope:

Mayor Truax voiced concern of not hearing any traffic and pedestrian safety issues beyond those raised at the Planning Commission hearing, to which the following motion to amend was made.

MOTION REGARDING SCOPE AS AMENDED: Councilor Rippe moved, seconded by Councilor Valfre, to hear the appeal issues and include traffic and pedestrian safety issues.

Hearing no further concerns from the Council, Mayor Truax asked for a roll call vote on the above-noted motion as amended.

ROLL CALL VOTE REGARDING SCOPE AS AMENDED: AYES: Councilors Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: Council President Johnston. MOTION CARRIED 6-0.

Additional Written Testimony Received:

Karen Reynolds, Forest Grove, submitted an e-mail, dated August 12, 2019, 2:46 p.m., asking the Dollar General store to change their location due to pedestrian and traffic safety concerns and there being three schools within the walking area.

No additional written testimony was received.

Proponents:

Steve Powell, “Applicant”/developer/property owner, 1410 Main Street, Suite C, Ramona, CA, 92065, reported Dollar General is not the applicant but is the tenant for the property, noting the site was selected based on demographics and commercially underserved areas. Powell addressed facts pertaining to their proposed development and applicable Development Code provisions that were set forth in their written correspondence dated July 31, 2019, and which pertained to the proposed Dollar General retail store on the property located at 1211 Gales Creek Road, and their interpretation of the Village Center requirement set forth in the code provision. Powell introduced Michael Connors, Applicant’s Attorney, Hathway Larson, Portland, OR 97209, who addressed the appeal issues, noting they disagreed with the Appellant’s interpretation and argued that an individual commercial development can be approved within the NMU zoned area as long as it complies with the Village Center requirement set forth in the code provision. Connors reported the Gales Creek NMU area is owned by multiple property owners (9) and it would be virtually impossible and highly unlikely this area will ever be developed if it can only be developed as a single, large, mixed-use development. Next, Connors addressed the traffic impact analysis, noting they

met with city staff and Washington County Transportation on several occasions and both entities concluded the thresholds were too low (trips generated by 9,100 square foot store) to warrant a traffic study (further supported by the City's Transportation System Plan (2014)) and because of small increase in trips and the low documented collision rate, no further safety investigation was warranted. Connors addressed pedestrian safety, noting the Gales Creek Road frontage improvements include curbs, gutters and sidewalks as a condition of approval, noting sidewalks are installed concurrent with development, thus, improving pedestrian connectivity and safety along Gales Creek Road. Connors added the Dollar General is a neighborhood-scale retail store as well as pedestrian-friendly and is well below the maximum size restriction imposed on commercial uses. In conclusion of their testimony, Powell and Connors urged Council to deny the appeal and affirm the Planning Commission's decision and conditions of approval.

Opponents:

Christopher Wilmeth, Forest Grove, Appellant, (Exhibit A, Appellant's Material, date stamped July 2, 2019), summarized the reasons of his appeal as follows: 1) The proposed store is not within the Village Center pursuant to Code §17.3.320, and 2) the proposed development does not comply with the purpose of the NMU zone pursuant to Code §17.3.310. In conclusion of his testimony, Wilmeth urged Council to reject the application until the applicant can at the very least submit a design for the Village Center requirement.

David Smith, Forest Grove, testified in support of upholding the appeal, voicing concerns pertaining to traffic safety and current zoning and the type of business not fitting the type of development for Village Center.

Phil Ruder, Forest Grove, Planning Commissioner, submitted written testimony, dated August 12, 2019, recapping his reasons of why he voted no at the Planning Commission hearing. Ruder voiced concerns that approving an individual application would effectively turn the area into a commercial zone, noting if that is the case, an application should not be allowed until such a zone change can be deliberated.

Devon Downeysmith, Forest Grove, testified in support of upholding the appeal, voicing concerns pertaining to the current zoning and the type of business not fitting the type of development for Village Center. Downeysmith urged taking the necessary time and steps to consider if the area is zoned correctly.

Tom Waddingham, Forest Grove, testified in support of upholding the appeal, voicing concerns pertaining to the type of business at the site location and pedestrian and traffic safety, i.e., delivery trucks turning around.

Kate Grandusky, Gales Creek, testified in support of upholding the appeal, voicing concerns pertaining to the type of business at the site location and pedestrian and

student safety.

Charlene Murdock, Forest Grove, testified in support of upholding the appeal, noting her concerns have been heard.

Victoria Lowe, Forest Grove, former Planning Commissioner and City Councilor, voiced concerns pertaining to the need for conducting traffic impact studies, reducing traffic speeds and providing safe routes to school as well as reviewing processes and code regulations.

Richard White, Forest Grove, testified in support of upholding the appeal, voicing concerns pertaining to the type of business at the site location and the code needing to be revised and updated.

Others:

No one else testified and no written comments were received.

Appellant's Rebuttal:

Powell and Connors addressed the testimony heard, rebutting that the Development Code allows commercial uses to be located within a multi-use Village Center, and it does not require the City to "designate" the Village Center before any individual commercial use can be approved. General retail uses, such as the proposed Dollar General retail store, are allowed in the NMU zone. Connors argued if the City intended the Village Center to be designated and all potential commercial uses approved as a single development proposal before any commercial development could occur, the City would have expressly stated so in Development Code §17.4.315(F). Connors recapped the pre-application meetings with staff recommending conditional approval, noting they have not at any time disregarded the City's code requirements. Connors recapped the Planning Commission's discussion and conditions of approval listed in the Planning Commission's Decision. In addition, Connors reported truck deliveries will occur once a week, noting at the request of the County, they shifted the design to allow access and sufficient room for delivery trucks to turn around on the site. Connors advised if Council upholds the appeal, it would not only preclude this project but it would also make it extremely difficult to develop the Gales Creek NMU zoned area as one lot, i.e., all property owners wanting to develop, or any other NMU zoned areas in the City. Further, Connors recognized the stretch of Gales Creek Road being challenging even without the Dollar General store, noting the City could use system development charges and taxes it would collect from the development to improve pedestrian safety in the area. Connors advised requiring an applicant to extend improvements to the entire NMU zoned would be unconstitutional, noting new development does facilitate solutions towards much needed public improvements. Lastly, Connors recapped the costs they have invested on the proposed project.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Staff Response to Testimony:

Staff had nothing to add.

Questions of Staff:

In response to Wenzl's inquiry pertaining to what staff envisioned when Village Center was designated, recognizing parcels were individually owned, Reitz explained staff concurs the designation would not be pre-established but adopted through the application review process. In response to Wenzl's inquiry pertaining to other municipalities with similar designation, staff was unable to provide information without researching. In response to Wenzl's inquiry pertaining to if the applicant would need to reapply if the area was rezoned, Reitz advised once new code amendments are adopted, applicants would need to comply with the current code amendments. Pohl reminded Council of the quasi-judicial hearing and noting Council must make a decision on the appeal this evening.

In response to Rippe's inquiry pertaining to if Village Center needed to be designated within the NMU zone, Reitz clarified Village Center would be addressed through the legislative process as a component on a site plan versus a designation.

In response to Valfre's inquiry pertaining to the scale of a business, i.e., 9,100 square-foot building, in a Village Center, Reitz clarified it is about function and not scale. In response to Valfre's inquiry pertaining to staff's interpretation of third-places, staff was unable to cite a code definition. In response to Valfre's inquiry pertaining to staff's opinion regarding future development of the zoning area, staff could not provide its opinion, but agreed that development of individual parcels within one zoning district, such as NMU zoning districts, could be problematic.

Hearing no further questions from the Council, Mayor Truax recapped the scope, noting Council agreed to hear the appeal issues, including traffic and pedestrian safety issues. Parsons recapped the following two options for Council's determination:

- If the Council determines that the MUPD preliminary plan approval process is the only means by which a "Village Center" may be established in the NMU zoning district, then the Council would be obligated to uphold the appeal.
- If the Council determines that the MUPD preliminary plan approval process is not the only means by which the Council can designate a "Village Center" then it would need to designate the subject property as a "Village Center" as part of this process in order to approve the application.

Council Discussion:

Rippe referenced §17.3.320(E), Table 3.10[16], "*Use is only permitted within a Village Center of a Mixed Use Planned Development approved in accordance with*

§17.4.300.”, noting he does not feel that process (requirement) has been completed. Rippe indicated he does not believe the Council has done its due diligence, noting he supports moving ahead with a Council work session to review the code.

Wenzl concurred that Mixed Use Planned Development has to occur, noting this statement is clear in the above-referenced code section. Wenzl also concurred moving ahead with a Council work session to review the code.

Thompson was in favor of approving the application, noting he supports the legislative history regarding the purpose behind the zoning and development of this area. Thompson recalled the area being proposed for a store when it was rezoned, noting this an opportunity as the City moves forward with the west side area.

Valfre commending the applicant for doing a good faith effort to work with the City and County, noting it has been a very difficult decision. Valfre indicated he is not in favor of approving the application, noting he is very concerned that the traffic study is outdated. Valfre noted there needs to be consistency, clarity and a better planning vision and no ambiguity.

Uhing indicated she finds it very difficult when there is ambiguity, noting her concerns are the traffic study is outdated and the project does not warrant the intent of Village Center. Uhing concurred moving ahead with a Council work session to review the code.

Hearing no further concerns from the Council, Mayor Truax asked for a motion.

MOTION: Councilor Rippe moved, seconded by Councilor Wenzl, to Sustain the Appeal and Deny the Application (Site Plan and Design Review for Dollar General, 1121 Gales Creek Road (Washington County Tax Lot 1N436B003100); File No. 311-19-000006-PLNG).

Mayor Truax voiced his disappointment that the code did not provide a definition for Village Center, noting the Council has ability to fix errors and to ensure certainty.

Hearing no further concerns from the Council, Mayor Truax asked for a roll call vote the above-noted motion.

ROLL CALL VOTE: AYES: Councilors Rippe, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: Councilor Thompson. ABSENT: Council President Johnston. MOTION CARRIED 5-1.

Mayor Truax advised staff will prepare an Order formalizing the Council’s decision for adoption at the next meeting of September 9, 2019.

RECESSED: Mayor Truax recessed for a break at 9:59 p.m. and reconvened the regular meeting at 10:05 p.m.

7. **PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2019-09 AMENDING FOREST GROVE CODE OF ORDINANCES, ADOPTING TITLE XI (BUSINESS REGULATION), CHAPTER 111 (§ 111.065), TITLED FOOD WASTE REQUIREMENT**

Staff Report:

Downey presented the above-proposed ordinance for first reading, noting the proposed ordinance is adopting Code of Ordinances, Title XI (Business Regulations), Chapter 111, §111.065, Food Waste Requirement. Downey reported Metro established a business food waste recycling requirement, effective July 1, 2019, which mandates local jurisdictions to require businesses to separate and recover food waste. Downey referenced Attachment A, letter from Metro, dated August 2, 2019, granting an extension to the City to have its ordinance in place by October 31, 2019. Downey referenced Attachment B, list of businesses by group, noting approximately 38 businesses will be affected. The businesses will be phased-in over a four-year period in three groups depending on amount of waste generated. Downey reported the Sustainability Committee reviewed the proposed ordinance on July 25, 2019, noting Metro's responses to the Committee's questions are outlined in the staff report. Downey advised staff does not anticipate the Community Enhancement Program revenue to decline as a result of the above-noted program, noting Metro is capping the waste at the Forest Grove Transfer Station from the current 125,000 ton limit to 75,000 tons per year. In conclusion of the above-noted staff report, Downey advised staff is recommending Council approve the proposed ordinance, as outlined in Exhibit A, noting once the ordinance is adopted, the affected businesses will be notified. The City will work with Washington County Solid Waste and Recycling to implement education and outreach as part of the cooperative program. Metro is providing funding assistance to implement the above-noted program. In addition, Downey advised other aspects of implementation is working with Waste Management (WM) on the collection process and determining a rate, noting staff will have more information from WM at a later date.

Questions of Staff:

In response to various Council concerns pertaining to enforcement and fine structure, Downey advised if a covered business does not cure a violation within the time specified in the citation, it may be subject to the general fine of up to \$1,000, noting enforcement will first focus on education and assistance for compliance, similar with the Business Recycling Requirement that is also adopted in City Code.

Before proceeding with the Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Ordinance No. 2019-09 for first reading.

VanderZanden read Ordinance No. 2019-09 by title for first reading.

MOTION: Councilor Wenzl moved, seconded by Councilor Uhing, to adopt Ordinance No. 2019-09 amending Forest Grove Code of Ordinances, adopting Title XI (Business Regulation), Chapter 111 (§ 111.065), titled Food Waste Requirement.

Public Hearing Opened:

Mayor Truax opened the Public Hearing and explained hearing procedures.

Written Testimony Received:

No written testimony was received.

Proponents:

No one testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Continued:

Hearing no further concerns from the Council, Mayor Truax continued the Public Hearing to September 9, 2019.

8. RESOLUTION NO. 2019-41 ACCEPTING TOWN CENTER STREET TREE INVENTORY AND ASSESSMENT REPORT

Due to limited agenda time, VanderZanden rescheduled the above-noted agenda item to the next meeting of September 9, 2019.

9. RESOLUTION NO. 2019-42 ADOPTING CITY OF FOREST GROVE 2020 ECONOMIC DEVELOPMENT STRATEGIC PLAN

Due to limited agenda time, VanderZanden rescheduled the above-noted agenda item to the next meeting of September 9, 2019.

10. RESOLUTION NO. 2019-43 AUTHORIZING CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT FORMING AN EMS ALLIANCE IN WASHINGTON COUNTY

Staff Report:

Fire Chief Kinkade presented the above-proposed resolution for Council consideration, noting the proposed resolution is authorizing the City Manager to execute an Intergovernmental Agreement to form an Emergency Medical Services

(EMS) Alliance in Washington County. Kinkade reported the Participants include Washington County, City of Forest Grove, City of Hillsboro, Banks Fire District and Tualatin Valley Fire and Rescue, noting the EMS system will be integrated more effectively with a new governance model that includes a unified decision-making body and an EMS Plan that ensures a single, transparent system from dispatch to transport. In conclusion of the above-noted staff report, Kinkade advised staff is recommending Council adopt the attached resolution as outlined in Exhibit A.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2019-43.

VanderZanden read Resolution No. 2019-43 by title.

MOTION: Councilor Valfre moved, seconded by Councilor Uhing, to adopt Resolution No. 2019-43 Authorizing City Manager to Execute an Intergovernmental Agreement Forming an EMS Alliance in Washington County.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: Council President Johnston. MOTION CARRIED 6-0.

11. RESOLUTION NO. 2019-44 RESTRICTING FUND BALANCE WITHIN THE LIGHT AND POWER FUND FOR NON-FEDERAL POWER PURCHASE CREDIT SUPPORT RESERVES

Staff Report:

Hormann and Downey presented the above-proposed resolution for Council consideration, noting the proposed resolution is restricting fund balance within the Light and Power Fund for Non-Federal Power Purchase Credit Support Reserves. Downey reported the City has agreed to purchase 1 megawatt (MW) of non-federal power in both Fiscal Years 2019 and 2020 (October 1 through September 30) through Northwest Energy Supply Cooperative (NIES) to meet its commitment to the Bonneville Power Administration (BPA) of purchasing power above the BPA established high-water mark from non-federal sources. Downey reported the contract with NIES requires that the City establish Credit Support Reserves for the power purchases based on a percentage of the remaining purchase obligation, noting the resolution is setting aside: 1) as of October 1, 2019, \$53,646; 2) as of June 30, 2020, \$32,603; and 3) as of September 1, 2020, \$27,955, which cannot be used for any other purpose while this resolution is in effect. In conclusion of the above-noted staff report, Hormann and Downey advised staff is recommending Council adopt the

attached resolution as outlined in Exhibit A, noting there is minimal fiscal impact as only about one percent of the L&P Fund balance will be restricted.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2019-44.

VanderZanden read Resolution No. 2019-44 by title.

MOTION: Councilor Uhing moved, seconded by Councilor Wenzl, to adopt Resolution No. 2019-44 Restricting Fund Balance within the Light and Power Fund for Non-Federal Power Purchase Credit Support Reserves.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: Council President Johnston. MOTION CARRIED 6-0.

12. RESOLUTION NO. 2019-45 AUTHORIZING CITY MANAGER TO EXECUTE THE MASTER RESOURCE AGREEMENT BETWEEN CITY OF FOREST GROVE AND NORTHWEST INTERGOVERNMENTAL ENERGY SERVICES (NIES) FOR MARKET PURCHASES THROUGH FISCAL YEAR 2021

Staff Report:

Hormann and Downey presented the above-proposed resolution for Council consideration, noting the proposed resolution is authorizing the City Manager to execute the Master Resource Agreement between the City and Northwest Intergovernmental Energy Services (NIES) for market purchases through Fiscal Year 2021. Downey reported the City has a projected need of 1 aMW of Tier II power in both Fiscal Years 2020 and 2021 (October 1 through September 30) to fulfill its obligation under the Bonneville Power Administration (BPA) purchase contract. Downey advised the current electric power market prices are below Tier I prices, noting the City has an opportunity to purchase non-federal power along with other NIES public utilities at or below projected Tier I rates. In conclusion of the above-noted staff report, Hormann and Downey advised staff is recommending Council adopt the attached resolution as outlined in Exhibit A, noting the agreement is for the purpose of purchasing Tier II power in 2020 and 2021.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2019-45.

VanderZanden read Resolution No. 2019-45 by title.

MOTION: Councilor Valfre moved, seconded by Councilor Rippe, to adopt Resolution No. 2019-45 Authorizing City Manager to Execute the Master Resource Agreement between City of Forest Grove and Northwest Intergovernmental Energy Services (NIES) for Market Purchases through Fiscal Year 2021.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: Council President Johnston. MOTION CARRIED 6-0.

13. **RESOLUTION NO. 2019-46 AUTHORIZING CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF FOREST GROVE AND CLEAN WATER SERVICES FOR CONSTRUCTION OF 19TH AVENUE AND MAPLE STREET INFLOW AND INFILTRATION REHABILITATION PROJECT NO. 6962**

Staff Report:

Downey presented the above-proposed resolution for Council consideration, noting the proposed resolution is authorizing the City Manager to execute an Intergovernmental Agreement (IGA) between the City and Clean Water Services (CWS) for construction of 19th Avenue and Maple Street Inflow and Infiltration (I&I) Rehabilitation Project No. 6962. Downey reported the City has agreed to participate 50/50 on the first of up to three I&I projects, noting the projects are designed to replace sewer pipes and laterals in areas of the City where significant amount of surface water (inflow) and/or groundwater (infiltration) is getting into the sewer system. Downey referenced a map showing the Project Location Area, noting CWS has identified three areas and is proposing to do each separately. If the first two projects reduce I&I to an acceptable level, CWS will propose not doing the third project. Downey reported total estimated cost of the first project is \$2,495,000 (50/50 split), noting CWS has agreed to pay all costs of the first project up front so the City does not significantly depleting its reserves. Downey advised pursuant to the proposed IGA, the City will pay CWS back for its share of costs over a 10-year period with semi-annual payments, plus interest at 2.07 percent, similar to I&I project in 2008. The City will use Sanitary Sewer System Development Charges (SDC) funds to pay the debt service on the first project and future debt service payments on any subsequent projects will be paid from the Sewer Fund. In conclusion of the above-noted staff report, Downey advised staff is recommending Council adopt the attached resolution as outlined in Exhibit A, noting the City will enter into a subsequent IGA for

allocating Sewer SDC through June 30, 2023 (refer to Agenda Item 14).

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2019-46.

VanderZanden read Resolution No. 2019-46 by title.

MOTION: Councilor Uhing moved, seconded by Councilor Valfre, to adopt Resolution No. 2019-46 Authorizing City Manager to Execute an Intergovernmental Agreement between City of Forest Grove and Clean Water Services for Construction of 19th Avenue and Maple Street Inflow and Infiltration Rehabilitation Project No. 6962.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: Council President Johnston. MOTION CARRIED 6-0.

14. RESOLUTION NO. 2019-47 AUTHORIZING CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF FOREST GROVE AND CLEAN WATER SERVICES FOR ALLOCATION OF SANITARY SEWER SYSTEM DEVELOPMENT CHARGES

Staff Report:

Downey presented the above-proposed resolution for Council consideration, noting the proposed resolution is authorizing the City Manager to execute an Intergovernmental Agreement (IGA) between the City and Clean Water Services (CWS) for allocation of Sanitary Sewer System Development Charges (SDC).

Downey reported the City has agreed to participate 50/50 on the construction of 19th Avenue and Maple Street Inflow and Infiltration (I&I) Rehabilitation Project No. 6962. Downey advised CWS is allowing the City to continue to retain 20 percent (Local Portion) and CWS retain 80 percent of the Sewer SDC collected, and the City is responsible for funding sewer line project under 24 inches in diameter. In conclusion of the above-noted staff report, Downey advised staff is recommending Council adopt the attached resolution as outlined in Exhibit A, noting the 20/80 split of Sewer SDC collected will remain unchanged through June 30, 2023.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2019-47.

VanderZanden read Resolution No. 2019-47 by title.

MOTION: Councilor Rippe moved, seconded by Councilor Wenzl, to adopt Resolution No. 2019-47 Authorizing City Manager to Execute an Intergovernmental Agreement between City of Forest Grove and Clean Water Services for Allocation of Sanitary Sewer System Development Charges.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: Council President Johnston. MOTION CARRIED 6-0.

15. **RESOLUTION NO. 2019-48 OF THE CITY COUNCIL ACCEPTING CITY MANAGER'S ANNUAL PERFORMANCE REVIEW**

Staff Report:

Mayor Truax presented the above-proposed resolution for Council consideration, noting Council heard the City Manager's self-evaluation on May 28 and held an Executive Session on June 24 and July 8, 2019, to complete the review and present the annual performance review to the City Manager. Mayor Truax gave a brief recap of the City Manager's performance, noting Council found the City Manager's performance meritorious. In conclusion of the above-noted report, Mayor Truax advised Council must evaluate the City Manager's performance at least once a year and must authorize by resolution the City Manager's annual base salary upon conclusion of the annual performance review in accordance with City Manager's Employment Agreement, Sections 5 and 6.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2019-48.

Mayor Truax read Resolution No. 2019-48 by title.

MOTION: Councilor Valfre moved, seconded by Councilor Wenzl, to adopt Resolution No. 2019-48 of the City Council Accepting City Manager's Annual Performance Review dated July 8, 2019.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: Council President Johnston. MOTION

CARRIED 6-0.

16. RESOLUTION NO. 2019-49 OF THE CITY COUNCIL AUTHORIZING COMPENSATION FOR CITY MANAGER FOR FISCAL YEAR 2019-20, AND REPEALING RESOLUTION NO. 2018-71

Mayor Truax presented the above-proposed resolution for Council consideration, noting Council adopted Resolution No. 2019-48, refer to Item 15 above, accepting the City Manager's Annual Performance Review. In conclusion of the above-noted report, Mayor Truax advised Council must authorize by resolution the City Manager's annual base salary upon conclusion of the annual performance review, noting Council is proposing a 3.5 percent increase for Fiscal Year 2019-20.

Mayor Truax read Resolution No. 2019-49 by title.

MOTION: Councilor Wenzl moved, seconded by Councilor Rippe, to adopt Resolution No. 2019-49 of the City Council Authorizing Compensation for City Manager for Fiscal Year 2019-20: Section 1. The City Manager's base salary shall be as follows, effective July 1, 2019 through June 30, 2020: \$12,918.87/monthly; \$155,026.44/annually (3.5% increase); and Section 2. The City Manager's vehicle allowance in lieu of the City providing the use of a city-owned vehicle shall be as follows, effective July 1, 2019 through June 30, 2020: \$258.75/monthly; \$3,105.00/annually (3.5% increase), and Repealing Resolution No. 2018-71.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: Council President Johnston. MOTION CARRIED 6-0.

17. CITY COUNCIL COMMUNICATIONS:

Due to limited agenda time, Mayor Truax postponed Council Communications to the next meeting of September 9, 2019.

18. City Manager's Report:

Due to limited agenda time, VanderZanden postponed his report to the next meeting of September 9, 2019.

19. MAYOR'S REPORT:

Due to limited agenda time, Mayor Truax postponed his report to the next meeting of September 9, 2019.

20. **ADJOURNMENT:**

Mayor Truax adjourned the regular Council meeting at 10:27 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Anna D. Ruggles". The signature is written in a cursive style.

Anna D. Ruggles, CMC, City Recorder